

## **REMARKS**

### ***Summary of Amendments***

1. Claims 1 through 5 were originally presented in this application. No claims have been added. Claim 2 was cancelled without prejudice in a previous paper. Claim 1 has been amended, as described in more detail below, to more particularly point out and distinctly claim the inventive material of the instant invention. In particular, the limitation of previously presented claim 3 has been incorporated into independent claim 1. Claims 3 and 5 have been canceled in this paper. Claims 1 and 4 remain pending.

### ***Claim Rejections – 35 U.S.C. § 112***

2. Claim 1 stands rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. In particular, the Examiner asserts that the claimed radial distance between the electrode and the periphery of the wafer holder (being greater than 2.5 mm and less than about 25 mm) is new matter because there is no appreciation in the specification about the distance being greater but not equal to 2.5 mm.
3. While Applicants disagree with the Examiner's rejection under this section on new matter grounds, they have nonetheless amended claim 1 to remove the distance limitation between the periphery of the wafer holder and the RF electrode. Accordingly, Applicants submit that claim 1, as amended, now meets the written description requirement. Applicants request that the Examiner therefore withdraw the § 112 rejection.

### ***Claim Rejections – 35 U.S.C. § 102***

Claims 1-5; Niori et al. '246

Claims 1-5; Divakar et al. '487

4. Claims 1 and 3-5 stand rejected under 35 U.S.C. § 102(b) as being anticipated by *Niori et al.* (U.S. Pat. No. 6,197,246), and under 35 U.S.C. § 102(e) as being anticipated by *Divakar et al.* (U.S. Pat. App. Pub. No. 2002/0185487).
5. Applicants respectfully traverse this rejection to the extent that it is pertinent to amended claim 1. Claim 1 has been amended to recite:

wherein the distance between the periphery of the high-frequency RF power-generating electrode circuit built into the wafer holder and the periphery of the wafer holder is longer than the distance separating said electrode circuit from the wafer-carrying surface.

Amended claim 1 is supported by original claims 1 and 3, such that no new matter has been entered, nor should a new search be required.

6. Applicant respectfully submits that claim 1, as amended, is now patentable over the prior art of record in this case. Neither *Niori et al.* nor *Divakar et al.* explicitly disclose an RF electrode circuit having a diameter greater than that of the wafer as recited in amended claim 1. Applicants again point out that Fig. 7 of *Niori et al.* is schematic in nature and clearly not drawn to scale. Moreover, there is an absence of any teaching in the *Niori et al.* specification that the electrode circuit diameter is greater than that of the wafer. In fact, the only teaching of any relevance is in direct contrast to the appearance of Fig. 7. As noted by the Examiner, *Niori et al.* explicitly disclose that the electrode circuit and the wafer have equal diameters (200 mm). Accordingly, Applicant submits that *Niori et al.* does not disclose an electrode circuit having a diameter greater than that of the wafer.
7. Regarding *Divakar et al.*, Fig. 1 therein is also clearly schematic in nature and not drawn to scale. Moreover, as with *Niori et al.*, there is a complete absence of any teaching in the *Divakar et al.* specification regarding the relative diameters of the electrode circuit and the wafer. Accordingly, Applicants submit that *Divakar et al.* does not disclose an electrode circuit having a diameter greater than that of the wafer.
8. Applicants further submit that the Examiner's reliance on Fig. 7 of *Niori et al.* and Fig. 1 of *Divakar et al.* is improper. MPEP 2125 states: "proportions of features in a drawing are not evidence of actual proportions when drawings are not to scale." MPEP 2125 further states: "when the reference does not disclose that the drawings are to scale and is silent as to dimensions, arguments based on measurement of drawing features are of little value." MPEP 2125, in quoting from *Hockerson-Halberstadt, Inc. v. Avia Group Int'l.*, goes on to state: "[I]t is well established that patent drawings do not define the precise proportions of the elements and may not be relied on to show particular sizes if the specification is completely silent on the issue." As stated above in Paragraphs 6 and 7, *Niori et al.* and *Divakar et al.* are "completely silent" with regard to proportion relationships between the RF electrode and the wafer. Moreover, the figures in question are clearly not drawn to scale. Accordingly, it is respectfully submitted that the rejection of claim 1 as being anticipated by Fig. 7 of *Niori et al.* and Fig. 1 of *Divakar et al.* is improper and cannot stand.

9. For the reasons set forth above, Applicants respectfully urge that independent claim 1, as amended, is patentable over the prior art of record. Independent claim 1 being allowable, it follows that pending dependent claim 4 must also be allowable. Accordingly, Applicants request that the Examiner withdraw his rejections of claims 1 and 4.

***Claim Rejections – 35 U.S.C. § 103***

Claims 1-5; Niori et al. '246 in view of Shamouilian et al. '298

10. Claims 1 and 3-5 also stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Niori et al.* in view of *Shamouilian et al.* (U.S. Pat. App. Pub. No. 2001/0003298). Applicants respectfully submit that this rejection is rendered moot in view of the remarks set forth above in Paragraphs 6-8 of this paper.

Applicants believe that this application is now in full condition for allowance, which action Applicants earnestly solicit.

Respectfully submitted,

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/James Judge/

James W. Judge  
Registration No. 42,701

**JUDGE & MURAKAMI IP ASSOCIATES**  
Dojima Building, 7<sup>th</sup> Floor  
6-8 Nishitemma 2-Chome, Kita-ku  
Osaka-shi 530-0047  
JAPAN

Telephone: **305-938-7119**  
Voicemail/Fax: **703-997-4565**